

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

IN THE HENDRICKS SUPERIOR COURT

CAUSE NO. 32D01.9506 . CP.121

STATE OF INDIANA,

Plaintiff,

v.

A.H.P., INC.

Defendant.

**VERIFIED COMPLAINT FOR INJUNCTION, RESTITUTION
AND CIVIL PENALTIES**

The State of Indiana, by Attorney General Pamela Carter and Deputy Attorney General Michael A. Beason, petitions the Court pursuant to the Indiana Business Opportunity Transactions Act, Ind. Code 24-58-1 et seq., and the Indiana Deceptive Consumer Sales Act, Ind. Code 24-5-0.5-1 et seq., for injunctive relief, restitution, civil penalties, investigative costs, and other relief.

FACTS

1. The Defendant, A.H.P., Inc., is a Missouri corporation with its principal place of business at 404 East Battlefield, Springfield, Missouri.

2. At all times relevant hereto, the Defendant was engaged in the business of selling air and water filtration device business opportunities to the general public and has engaged in the solicitation of a business opportunity within the State of Indiana since at least June, 1993.

3. The Defendant solicited and entered into contracts for the sale of said business opportunity with Indiana investors, including, but not limited to Michael E. Funk, of Hendricks County, Indiana, who paid \$10,000.00 to the Defendant on June 11, 1993. A true and correct copy of said contract is attached hereto, incorporated herein by reference, and marked

Exhibit A.

4. The Defendant's offer of an investment in air and water filtration devices to Indiana consumers is a "business opportunity" as defined by Ind. Code 24-5-8-1.

VIOLATIONS OF THE BUSINESS OPPORTUNITY TRANSACTIONS ACT

5. The Defendant failed to provide Indiana investors with the disclosures required by Indiana law at least seventy-two (72) hours before the earlier of the investors' execution of a business opportunity contract with the Defendant or receipt of any consideration by the Defendant, in violation of Ind. Code 24-5-8-2.

6. The Defendant failed to obtain a surety bond in favor of the State of Indiana prior to offering to sell its business opportunity to Indiana investors, in violation of Ind. Code 24-5-8-3.

7. The Defendant failed to file a copy of the disclosure statement and surety bond and pay the filing fee required by Indiana law with the Consumer Protection Division of the Office of the Attorney General prior to placing any advertisement or mailing any representation to any Indiana consumer about said business opportunity, in violation of Ind. Code 24-5-8-4.

8. The Defendant failed to include a thirty (30) day cancellation provision in its business opportunity contracts with Indiana investors, in violation of Ind. Code 24-5-8-6.

9. Due to the foregoing violations of Ind. Code 24-5-8-2 and 24-5-8-6, Indiana investors have a statutory right to cancel their business opportunity contracts with the Defendant.

10. The investor identified in paragraph 3 above notified the Defendant in writing of the investor's intent to cancel a business opportunity contract in a timely manner, but the Defendant has failed to return the consideration paid for said contract to the investor.

VIOLATIONS OF THE INDIANA DECEPTIVE CONSUMER SALES ACT

11. The Defendant's violations of Indiana's Business Opportunity Transactions Act, Ind. Code 24-5-8-1 et seq. are violations of Indiana's Deceptive Consumer Sales Act, Ind. Code 24-5-0.5-1 et seq.

12. The Defendant's violations of Indiana's Business Opportunity Transactions Act, Ind. Code 24-5-8-1 et seq. were made with knowledge and intent to deceive.

13. The Defendant's violations of Indiana's Business Opportunity Transactions Act constitute "incurable deceptive acts" as defined by Ind. Code 24-5-0.5-2(7).

IRREPARABLE HARM

14. The deceptive acts set forth above will continue and will cause irreparable injury unless the Defendant is enjoined from engaging in further conduct which violates Ind. Code 24-5-8-1 et seq., and 24-5-0.5-1 et seq.

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendant, A.H.P., Inc., and order the following relief:

- a. A permanent injunction pursuant to Ind. Code 24-5-8-18 and Ind. Code 24-5-0.5-4(c)(1), enjoining the defendant, its agents, representatives, employees, successors, and assigns from engaging in conduct in violation of Ind. Code 24-5-8-1 et seq., or Ind. Code 24-5-0.5-1 et seq.;
- b. Cancellation of the Defendant's business opportunity contracts with Indiana investors pursuant to Ind. Code 24-5-8-15 and 16, and pursuant to Ind. Code 24-5-0.5-4(d);
- c. Restitution pursuant to Ind. Code 24-5-8-16 and pursuant to Ind. Code 24-5-0.5-4(c)(2), in the amount of all consideration paid to the Defendant by Indiana

investors for their purchase of air and water filtration service business opportunities;

d. Costs pursuant to Ind. Code 24-5-0.5-4(c)(3), awarding the Office of Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

e. Civil penalties pursuant to Ind. Code 24-5-0.5-4(g), for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana;

f. Civil penalties pursuant to Ind. Code 24-5-0.5-8, for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana; and

g. All other just and proper relief.

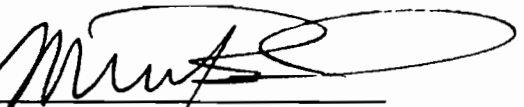
Respectfully submitted,

PAMELA CARTER
Attorney General of Indiana
Atty. No. 0004242-49

By: 

Michael A. Beason
Deputy Attorney General
Atty. No. 0015033-49

I affirm, under the penalties for perjury, that the foregoing representations are true and accurate to the best of my knowledge and belief.

By: 

Michael A. Beason
Deputy Attorney General
Atty. No. 0015033-49

402 West Washington Street
5th Floor - IGCS 556
Indianapolis, IN 46204-2770
Telephone: (317) 232-4774



INDEPENDENT DEALER/DISTRIBUTOR APPLICATION CONTRACT

Instructions for completing the application/contract form:

- * Please PRINT or type all information required
- * Application form must be fully completed. Partially completed applications will be RETURNED without processing.
- * READ CAREFULLY and sign below. Unsigned applications cannot be processed.
- * Completed application must be mailed together with a separate check, payable to AHP, Inc., for \$25 application fee (fee is not required in Louisiana) to: AHP, Inc., 404 E. BATTLEFIELD, SPRINGFIELD, MO 65807.

APPLICANT'S NAME: MIKE FUNK ☒ Social Security# [REDACTED]

SPOUSE'S NAME — Social Security# —

BUSINESS NAME: — FED. I.D. #: —

SALES TAX #: (APPLIES FOR) Name of State: INDIANA (Copy of Certificate Must be Attached to Application)

SHIPPING ADDRESS: [REDACTED]

CITY: INDIANAPOLIS STATE: INDIANA ZIP: [REDACTED]

TELEPHONE: [REDACTED] BUSINESS: — FAX: —

+ SPONSOR: GARY ROGERS AHP #: 7025

RECRUITING DISTRIBUTOR: GARY ROGERS AHP #: 7025
ALAN JOHNSON AHP #: 902

I hereby acknowledge that I have received and read this application form and the 1993 Rules for Operating AHP Dealers/Distributors Contract. I understand there is no requirement beyond the filing of this application and payment of the \$25.00 fee (not required in Louisiana) to become an AHP Dealer/Distributor and that any purchase of system inventory, sales aids, literature, etc., is strictly voluntary. I also acknowledge that the information that appears on this application is correct. I agree to abide by the 1993 Rules for Operating AHP Dealers/Distributor Contract as currently published and as amended and updated from time to time in official AHP Literature. I agree to indemnify and hold AHP harmless against any claims, costs, damages, losses, liabilities or expenses (including attorneys' fees) arising from or connected with, directly or indirectly, of my breach of this agreement or other conduct by me, my agent or employee. I acknowledge that if I breach this contract, AHP shall have the right to terminate my Distributorship and shall be entitled to damages and injunctive relief prohibiting any further violation of this contract. I also acknowledge that the name that appears on this application is my sponsor and if I wish to change my sponsor, I must wait a period of twelve (12) months after resigning to do so. I also acknowledge that it is the responsibility of the Recruiting Distributor whose name appears on this contract to order my systems, if I so choose to order, and to pay me the applicable rebates on which we have agreed.

X Applicant's Signature: Michael E. Funk Date 6-7-93

Sponsor's Signature: Gary Rogers Date 6-7-93

As the Recruiting Distributor, I hereby acknowledge that it is my responsibility to order systems for, and apply or pay applicable rebates to, the above signed applicant.

Recruiting Distributor: Gary Rogers Date 6-7-93

Louisiana Residents Note: The \$25.00 Application Fee which includes subscription to the AHP Tidal Wave newsletter is not required in Louisiana, however, Louisiana residents who choose to receive the AHP Tidal Wave may pay the \$25.00 Application Fee and sign here:

Original Copy to: AHP Home Office Yellow Copy to: Sponsor Pink Copy to: Applicant RULES TO APPLICANT

OFFICE USE ONLY: Date Rec'd 06/7 Fee Paid By MC - 25 Training Paid: 25
Business in a Box: 25 Position: —

STATE'S
EXHIBIT

Revised January, 1993

1993 RULES FOR OPERATING AHP DEALERS/DISTRIBUTORS
CONTRACT

- (1) Only authorized Dealers/Distributors of AHP, Inc., herein called Associates, may purchase AHP Systems for resale or participate in the AHP Profit and Incentive Program. Associates are prohibited from making system sales to persons or entities that are not authorized Associates when the selling Associate has reason to believe that the purchaser intends to resell the Systems. AHP Systems may not be sold through retail chain stores, catalogues or other non-personal mass retail sales means without the prior written approval of AHP.
- (2) Associates will at all times conduct themselves and their businesses in an ethical, moral, legal and financially sound manner, and will not engage in any activities which would bring disrepute on the good name or image of AHP, its Systems or other Associates.
- (3) All Associates are independent contractors and are not employees of AHP, Inc. As independent contractors, Associates may not create or incur any liability of any kind in the name of AHP, Inc. or its affiliates and therefore Associates are prohibited from making statements, claims or other representations of any kind suggesting or implying that they have an employment relationship with AHP, Inc.
- (4) Associates who elect to operate their businesses under their own state and/or local sales tax licenses, and who provide AHP with copies of such licenses are responsible for the collection and remittance of all such sales tax and will indemnify and hold AHP harmless regarding any liability or expense incurred by AHP due to the failure of the Associate to collect and remit such tax.
- (5) The only prerequisite to becoming an Associate is the execution of an Independent Dealer/Distributor Application and Contract and payment of a \$25.00 application/contract fee (fee not required in Louisiana). AHP must receive and accept the fully completed original application which is signed by the sponsoring individual (not the corporation or business name), and which must be free of any deletions, changes, or mark-outs. The \$25.00 application/contract fee entitles each Associate to receive the AHP "Tidal Wave" newsletter. Any further purchases of demonstration equipment, System inventory, sales aids, literature or supplies is strictly optional and not required by AHP.
- (6) Except where otherwise required by law, AHP will not repurchase a cancelling Associate's unused and resalable System inventory. Since AHP does not require an Associate to purchase System inventory, AHP does not have a repurchase offer. Systems can be exchanged for other Systems provided that the Associate pays a 5% restocking fee. Trades must be wholesale volume for wholesale volume only. Any System that has a cash difference must be paid in cash.
- (7) AHP pays no commissions or bonuses whatsoever for sponsoring new Dealers. AHP only pays commission or bonuses to Direct Distributors and above, and only on AHP Systems purchased for resale from AHP, Inc., subject to the terms set forth in the Profit and Incentive Program.
- (8) Each Associate must furnish AHP with their social security number. If the Associate is a partnership or a corporation, the person whose signature appears on the application form must be empowered to act for the partnership or corporation and will be treated by AHP as the entity's sole authorized representative for all purposes including insurance benefits, if any. If AHP earnings are to be paid to a corporation or other business entity, AHP must be provided with the entity's Federal I.D. number and the social security number of the person whose signature appears on the application form. AHP will not allow more than one contract per individual social security number.
- (9) Spouses of existing Associates may only be sponsored by that existing Associate.
- (10) Associates must be at least 18 years of age.
- (11) In promoting AHP Systems or the AHP Profit and Incentive Program, Associates will adhere strictly to the following:
 - A. Only current official AHP literature or materials may be used when promoting or describing AHP Systems or when making claims regarding the performance of AHP Systems. Use of any privately produced leaflets, brochures, flyers, mailers, doorhangers or other such material in gathering leads for or promoting sale of AHP Systems is strictly prohibited unless approved by AHP.
 - B. Associates must not make any verbal claims, express or implied, regarding AHP Systems or the performance of AHP Systems that are not entirely within the claims set forth in current official AHP literature.
 - C. AHP will not approve or permit use of its name, logo, trademarks or service marks in any broadcast, newspaper, magazine, or similar media advertising.
 - D. Income and sales representations or testimonials must be factual, current (within last six months), and based upon the personal experience of the Associate. Income representations must not state or imply that any level or amount of income is guaranteed, assured, or easy to achieve.
 - E. All representations, whether written or verbal, made in connection with advertising, promoting, or presenting AHP Systems or the AHP Profit and Incentive Program must comply fully with applicable laws and regulations of the jurisdiction in which such representations are made or received.
 - F. When performing the OTO test, Associates MUST clearly state to the customer or prospect that the test indicates ONLY the presence or absence of free available chlorine and does NOT indicate with scientific precision the level of chlorine actually present in the water being tested.
 - G. Any use of news articles or reports produced by or obtained from any source other than AHP relating to the health effects of air or water pollution problems or the health effects of chlorinated water is prohibited.
 - H. Associates must not state or imply that privately produced motivational, promotional or training materials are in any way approved or endorsed by AHP unless such statement is authorized. Any use of the AHP name or trademark, other trademarks of AHP or similar marks in any private produced materials must be approved by AHP in writing, must identify the Associate, must indicate that the Associate is an "Independent Distributor" and must otherwise comply with these rules.

- I. When offering, describing, or conducting the AHP Profit and Incentive Program, Associates will present and/or conduct the opportunity in its entirety, without material omissions, distortions or misrepresentations. The making of any additional offers or representations by Associates in connection with the presentation or conducting of the AHP Profit and Incentive Program is strictly prohibited.
- (12) In the event of a breach of any of the rules, AHP shall have the right to terminate the breaching Associate's contract and shall be entitled to damages and injunctive relief prohibiting any further violation of these rules. Each Associate must indemnify, defend and hold AHP and its affiliates harmless against any claims, costs, losses, damages, liabilities and expenses (including attorney fees) arising from or connected with directly or indirectly, an Associate's breach or violation of these rules.
- (13) In order to remain an Associate, AHP requires the execution of an annual renewal application and agreement and \$25.00 fee on January 1st of each year (fee is not required in Louisiana). If the annual renewal and fee are not received by February 1, the Contract will be cancelled. An Associate who fails to renew must wait twelve (12) months before obtaining another Contract. Associates sponsored after October 1st are exempt from the 1st year's renewal fee. Associates are strictly prohibited from making any offer or representation or agreement with a prospect relating to the AHP Profit and Incentive Program that does not comply with these rules. Associates who wish to change sponsors must wait a period of at least twelve (12) months after resigning before doing so.
- (14) Associates will always provide their retail customers with two (2) copies of a proper, fully completed sales receipt, and will honor any request by the customer to cancel the transaction within the 3-day period following the date of the transaction.
- (15) No Associate may export or sell directly or indirectly to others who export AHP's Systems, literature, sales aids or promotional items or any other promotional material or sales aids relating to AHP, its Systems or the AHP Profit and Incentive Program from the United States or its possessions or territories to any other country. An Associate may only sponsor internationally in countries which an AHP affiliate has registered to operate its business and must comply fully with the Rules for Operating AHP Dealers/Distributor Contract in that country. Any violation of this rule constitutes a material breach of this contract and is grounds for immediate termination of the contract.
- (16) No individual Associate may have an ownership interest in, operational or management control of, or derive any benefit directly or indirectly from, any second or subsequent AHP Contract not in the same line of sponsorship as the individual's initial AHP business.
- (17) Associates will not use the name or trademark of AHP, any other trademark or service mark of AHP (or any reproduction, counterfeit, copy or colorable imitation of any trademark of AHP, collectively, "similar marks") as part of any firm, corporate or business name, and shall not use the name or trademark AHP, any other trademark of AHP or any similar marks in any way except as authorized by AHP to designate the Systems purchased from AHP.
- (18) Associates acknowledge AHP's exclusive right, title and interest in and to the AHP name, trademarks, service marks and copyrights in AHP materials and literature and shall not at any time do or cause to be done any act or thing contesting or in any way impairing or tending to impair any part of such right, title or interest. In connection with the use of the AHP name, trademarks, materials or literature, Associates shall not in any manner represent that they have any ownership interest in the AHP name, trademarks or copyrights in AHP materials or literature, and shall appropriately show AHP's ownership interest hereof and therein. Associates further acknowledge that their use of the AHP name, trademarks, materials or literature shall not create in favor of the Associate any right, title, or interest therein or thereto, but that all such uses shall inure to the benefit of AHP.
- (19) Following any termination of a Contract, the former Associate: (a) shall remove and cease all use of the name or trademark AHP, any other trademark of AHP or any similar marks, and shall immediately destroy all stationary, advertising matter and all other matter in its possession or under its control containing the name or trademark AHP, any other trademark of AHP, or any similar marks, (b) shall not use or permit use of the name or trademark AHP, or any other trademark of AHP or any similar marks, in any manner in connection with any business conducted by it or in which it may have an interest, or otherwise as descriptive of or referring to anything other than genuine AHP Systems or merchandise; (c) shall immediately take all appropriate actions requested by AHP relating to the Associate's use of AHP trademarks; and (d) shall not sell any AHP System inventory except to another authorized AHP Associate or otherwise upon the prior written approval of AHP. In no case shall any former Associate be permitted to offer any AHP System for sale in commerce after an Associate's Contract has been terminated.
- (20) An Associate may sell his or her Contract to another party as long as that party signs an Independent Dealer/Distributor Contract Application and has not been an Associate for at least twelve (12) months prior to his purchase of the Contract. All Contract sales must be made in compliance with applicable laws and must be approved in writing by AHP before becoming effective. Once an Associate sells his Contract, he must wait at least twelve (12) months before he may obtain another Contract.
- (21) These rules shall be binding upon the heirs, representatives and permitted successors and assigns of the Associate. The provisions of Rules 17 through 21 shall continue to be binding upon the Associate, notwithstanding termination (for any reason) of the Associate's Contract.



404 E. Battlefield
Springfield, MO.65807
(417)882-1776
FAX (417)882-7710

ORDER DEPT. 1-800-749-20
NEW DISTRIBUTOR
PRICE LIST & ORDER FORM

Manager Name: <i>Darry Rogers</i>	AHP #: <i>7525</i>	<i>14</i> %	wv: <i>569</i>
Manager Name: <i>A.J. Johnson</i>	AHP #: <i>002</i>	<i>10</i> %	wv: <i>56</i>
Manager Name:	AHP #:	%	wv:

NOTE: Any items left blank will be filled in by the office per the plan.(i.e., % by position; wv equally)
AHP not responsible for making any corrections. Please double-check your work. Thank you.

SHIP TO Name: <i>Michael Junk</i>	Position:	Sponsor:
Address:	Phone: ()	
City:	St:	Zip:
	Payment Method:	

MODEL	DESCRIPTION	QUANTITY	UNIT COST	WV	TOTAL
C/R-1	Power House Conditioner	<i>2</i>	250.00	<i>500-</i>	<i>500</i>
A PLUS	Power House Conditioner		250.00		
MODEL-E	Booster	<i>2</i>	90.00	<i>180-</i>	<i>180</i>
PETRO MAG	for gasoline systems	<i>2</i>	80.00	<i>160-</i>	<i>160</i>
SUPER MAG	for diesel systems		200.00		
TFM-700	Travel	<i>1</i>	20.00	n/a	<i>20</i>
CTN-710	Countertop	<i>24</i>	130.00	<i>3120-</i>	<i>3120</i>
CTU-715	Undercounter	<i>16</i>	170.00	<i>2720-</i>	<i>2720</i>
CTU-L	Undercounter Lead Reduction	<i>2</i>	220.00	<i>440-</i>	<i>440</i>
CTN-UV	Ultraviolet Countertop (*WV320)	<i>1</i>	400.00	<i>320-</i>	<i>400</i>
PC2-730	In-line (Icemaker)	<i>12</i>	70.00	<i>840-</i>	<i>840</i>
PTB-740	Portable (Pour-thru)		60.00		
GAC-725	Wholehouse (250,000 gal) w/SR2 Prefilter (*WV470)	<i>1</i>	520.00	<i>470-</i>	<i>520</i>
GAC-844	Wholehouse (Million gal) w/SR2 Prefilter (*WV710)	<i>1</i>	860.00	<i>710-</i>	<i>860</i>
AHP-150	Portable Air Purifier (*WV130)	<i>2</i>	210.00	<i>260-</i>	<i>420</i>
AHP-250	Portable Air Purifier (*WV300)	<i>2</i>	350.00	<i>600-</i>	<i>700</i>
AHP-350	Portable Air Purifier (*WV400)	<i>2</i>	470.00	<i>800-</i>	<i>940</i>
DM-95	In-line Air Filter (16 Standard Sizes) (*WV100)	<i>1</i>	120.00	<i>100-</i>	<i>120</i>
DM-95C	In-line Air Filter (Custom Size) (*WV130)		150.00		

subtotals:

WV= *11,380-* ** *11940*

20% WV Rebate

SUB-TOTAL

Tax

FREIGHT & INSURANCE

Application &/or Training Fees

SALES AIDS (from reverse)

TOTAL AMOUNT DUE

10,000
revised 1/93

WV TOTAL

11,380-

FREIGHT/HANDLING

**Figure freight on this amount

MINIMUM CHARGE	\$4.00
UP TO \$1,000	3.5%
\$1,001 - \$3,000	3%
\$3,001 - \$5,000	2%
OVER \$5,000	1.5%
Insurance = \$0.30 per hundred	

DATE

06/11/93